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March 17, 2003

Electronic Submission

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street Southwest
Washington, DC 20554

Re: Testimony of Ben Tucker in Seattle Public Hearing -- 2002 Biennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules (Media Bureau Docket No. 02-277)

Dear Ms. Dortch:

On March 7, 2003, Ben Tucker, President of Fisher Broadcasting Company, participated in a panel at the Field Hearing on Media Concentration held on the campus of the University of Washington at Seattle, Washington. The Commission staff present at that meeting requested that a copy of Mr. Tucker's testimony be placed in the record of Media Bureau Docket No. 02-277. We are therefore tendering a copy of Mr. Tucker's written testimony via the Electronic Comment Filing System for consideration in connection with the Commission's 2002 Biennial Regulatory Review of the Commission's Broadcast Ownership Rules.

If there are any questions regarding this submission, please do not hesitate to contact the undersigned.

Very truly yours,

/s/ Clifford M. Harrington
Clifford M. Harrington
Counsel to Fisher Broadcasting Company

cc: Benjamin Tucker

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WRITTEN TESTIMONY OF BEN TUCKER
PRESIDENT
FISHER BROADCASTING COMPANY

Field Hearing on Media Concentration
The University of Washington
Seattle, Washington
March 7, 2003

My name is Ben Tucker. I am the President of Fisher Broadcasting Company, which is based here in Seattle. I have been in the broadcast business for almost 30 years and care deeply about its future. I am on the steering committee of the Network Affiliated Stations Alliance, a past Chair of NAB's Television Board and a past Chair of the CBS Television Network Affiliates Association Board. In my current position, I oversee the operation of Fisher's 12 television stations and 28 radio stations.

This panel has been asked to focus on the impact of the FCC's ownership rules on localism. Congress built localism into the Communications Act, and over and over again Congress, the Courts and the FCC have taken steps to preserve and advance this central goal.

Localism is more than local news and public affairs, though as Dave Lougee pointed out in the earlier panel, local news is a very important component of localism. Viewers watch local news more than national news and they give it high marks for reliability. Localism also includes the presentation of local sports and civic events, charity telethons, religious and educational programs and public service announcements for local causes. It is more than what the viewer sees on the screen. It includes fund drives, community outreaches and special undertakings in the community on literacy, drug abuse education and health care issues.

Localism also means delivering high quality *national* news, sports and entertainment. Local stations achieve that goal by affiliating with outstanding national networks It is the mix, selected by the local licensee, of local *and* national programming that makes our broadcast system so valuable to the communities we serve.

But localism also means *not* carrying network and other programming that is offensive to community tastes -- too violent, too crude, offensive to certain minority groups, etc. We independent affiliates serve localism not only through our decisions to carry or not carry network programming, but also through our collective ability to shape and restrain network programming that otherwise would be dictated by what Hollywood or New York thinks is cutting edge.

How, then, do the Commission's multiple ownership rules bear on localism? In my view -- and in the view of many, many broadcasters -- localism *supports* relaxation of the local ownership rules, particularly the tv/tv duopoly rule, and it *supports* strict retention of the 35% national ownership cap.

With respect to duopolies, the problem with the current eight-voice, top-four test is that it permits duopolies only in larger markets. Yet, it is in the mid-size and smaller markets where duopolies are most necessary. For stations in smaller markets to survive and make meaningful local-service contributions, they need to be able to enter into duopolies. This is especially true now, for two reasons.

First, affiliate compensation from the networks is going away. In fact, in many cases it is or will become negative because of the payments stations have to make to the networks. Elimination of the last remnants of network compensation will be fully effective in the next two years. For smaller-market stations, often serving rural America, network comp was 20% or more of their total revenues. Its termination will be devastating to small-market television service.

Second, all stations must make very substantial outlays to convert to digital, but for a smaller station, though the dollar amount may be similar to the costs for a larger station, the percentage of revenues represented by digital conversion costs can be life-threatening. And those costs are not merely to place a digital signal on the air but thereafter to change over every camera and every piece of equipment and plant at the station.

A relaxed duopoly rule is essential for numerous mid- and small-market stations to survive. Because of duopolies made possible by the limited relaxation of the rule several years ago, stations were built that would not have been built, competition was added, digital service was launched, news service was inaugurated or enhanced, children's programs were added, local sports and minority-oriented programming was made possible. Though the record is not perfect, it clearly demonstrates that these benefits should be made available in smaller markets as well.

The simplest, most effective way to reform the duopoly rule is to adopt the 10/10 proposal, which means that a television station may acquire another station in the same market provided that the second station does not have a share in excess of 10% of all viewing in the market.

Localism also calls for maintenance of the 35% cap.

The four major networks own 108 stations today, compared to 49 stations in 1996 when Congress by the smallest of margins raised the national cap to 35% and did not go higher because of concern about network dominance. And, in fact, the networks are now allowed to own studios, acquire syndicators and take financial interests in the programming they air. They now dominate program production, syndication and foreign sales and are heavily engaged in cable programming and Internet content ventures.

As a result, the networks have greater incentives than ever to use local stations (both O&Os and independent affiliates) to serve the broad corporate interests of their networks -- which require lockstep carriage of the entire national schedule. In the case of the growing number of stations they own, the networks' corporate mandate holds sway. The only effective counterweight is independently-owned affiliates whose goal is to provide the best possible service to their local communities. With a 35% cap, they barely retain critical mass to counteract the aggressively nationalizing trend of the networks.

There is strong evidence that, even with the cap at 35%, the industry is at a tipping point. Affiliate preemptions are down as much as 64% since 1995. The NBC affiliates were able, but just barely, to persuade their network to let them air the Presidential debate in 2000 as an alternative to a baseball playoff game. The Fox affiliates were given no such choice and had to carry Dark Angel instead of the debate. And while the CBS affiliates recently were able to persuade the network to move the

Victoria's Secret Fashion Show out of the 8:00 PM time slot, the network agreed to move it only to 9:00 PM, not to 10:00 PM, as the affiliates had urged.

I believe in localism. Most broadcasters live and breathe it. It is not simply a matter of Section 307(b) or court cases or FCC mandates. It is a matter of conviction and of good business. Retention of the 35% cap *and* relaxation of the duopoly and other local ownership rules will best serve the interest of localism.